IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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I.T.R. No.97 of 1992
Date of Decision: 4.12.2006

Commissioner of Income Tax, Jalandhar
.....Petitioner

Vs.

M/s Karamjit Electricals Mfg.(P) Ltd. Kartarpur
.....Respondent

CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Dr. N.L.Sharda, Advocate for the Revenue.

Mr. Akshay Bhan, Advocate for the respondent.

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ADARSH KUMAR GOEL, J.

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, `the Tribunal') arising out of its order dated 15.3.1991 passed in I.T.A. No.675(ASR)/1987, in respect of the assessment year 1981-82:-

> "Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in holding that the assessment framed by the Income-tax Officer, Inv.Circle, Jalandhar on 6.8.1984 u/s 143(3)/144B was barred by limitation and void abinitio?"

During the assessment year in question, the assessee was running a cold storage. The return for the year in question was filed on July 28, 1982 and according to the assessee, the assessment could latest be completed by March 31, 1984. However, the same was completed only on 6.8.1984. Though the plea of the assessment being time barred was neither raised before the Assessing Officer nor in the grounds of appeal before the CIT(A, the same was sought to be raised as an additional ground before CIT (A) which was rejected by CIT(A) on the ground that adjudication of the

additional issue would require verification of certain facts with the following observations:-

> "Alternatively, without conceding the first ground of dismissing this additional ground, it will require verification of certain facts. For example, it will require investigation into the administrative orders and files to find out whether any con-current jurisdiction order was ever passed by the Competent Authority in the case of the appellant. Further, it has to be investigated, whether any order was passed by the IAC in pursuance of con-current jurisdiction by the CIT defining the respective function to be performed by the ITO and the IAC. As the additional ground involves further investigations and enquiry and new evidence, I decline to entertain the same."

In further appeal before the Tribunal, the assessee was permitted to raise the additional ground for the reason that no additional facts are required for admitting the ground. However, while considering the issue on merit which was not even considered by CIT(A) as regards, the assessment order being time barred, the following finding was recorded which is totally non-speaking and without consideration of the material facts required for determination of the issue:-

> "It is also clear on the basis of the additional ground that the assessment is barred by the time limitation which is accordingly held to be void abinitio."

Accordingly, while holding that in the absence of complete facts on record, the Tribunal was not right in holding that the assessment framed by Assessing Officer dated 6.8.1984 was barred by limitation, we remit the case back to the Tribunal to consider the issue afresh in the light of the facts pleaded and contentions raised by counsel for the parties on the issue.

The reference is disposed of in the manner indicated above.

(ADARSH KUMAR GOEL)
JUDGE

December 4, 2006
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(RAJESH BINDAL)
JUDGE